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PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 23rd May, 1966/Jyaistha 2, 1888 (Saka)

The following Act of Parliament received the assent of the President on the 21st May, 1966, and is hereby published for general information:—

THE PRODUCE CESS ACT, 1966

No. 15 of 1966

[21st May, 1966]

An Act to provide for the imposition of cess on certain produce for the improvement and development of the methods of cultivation and marketing of such produce and for matters connected therewith.

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

- (1) This Act may be called the Produce Cess Act, 1966.
- (2) It extends to the whole of India.
3. In this Act, unless the context otherwise requires,—

Short title and extent.

Definitions

(a) "Collector" means the officer appointed by the Central Government to perform in any specified area the duties of a Collector under the provisions of this Act and the rules made thereunder, and includes any officer subordinate to that officer whom he may, by order in writing, authorise to perform his duties under those provisions;

(b) "cotton" means raw cotton, whether baled or loose, which has been ginned;

(c) "customs port" has the meaning assigned to it in the Customs Act, 1962;

(d) "Indian Council of Agricultural Research" means the body registered in that name under the Societies Registration Act, 1860;

52 of 1962.

(e) "lac" includes any form of manufactured or unmanufactured lac other than refuse lac;

21 of 1860.

(f) "managing agent" has the meaning assigned to it in the Companies Act, 1956;

1 of 1956.

(g) "mill" means,—

(i) in relation to cotton, any place which is a factory as defined in section 2 of the Factories Act, 1948, and in which, or in any part of which, cotton is converted into yarn or thread either for sale as such or for conversion into cotton goods,

63 of 1948.

(ii) in relation to copra or oil-seed and oil, any premises in which or in any part of which, copra or oil-seed, as the case may be, is crushed, or is ordinarily crushed, with the aid of power for the extraction of oil.

Explanation.—“Power” means electrical energy or any other form of energy, which is mechanically transmitted and is not generated by human or animal agency,

(iii) in relation to any other produce, such place as the Central Government may, by notification in the Official Gazette, specify;

(h) "occupier", in relation to any mill, means the person who has the ultimate control over the affairs of the mill and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the mill;

(i) "oil-seed" does not include copra;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "produce" means any goods specified in the First Schedule or the Second Schedule.

3. (1) There shall be levied and collected as a cess, for the purposes of this Act, on every produce specified in column 2 of the First Schedule, which is exported from any customs port to any port beyond the limits of India, a duty of customs at such rate, not exceeding the rate specified in the corresponding entry in column 3 thereof, as the Central Government may, by notification in the Official Gazette, specify : Imposition of cess.

Provided that until such rate is specified by the Central Government, the duty of customs shall be levied and collected at the rate specified in the corresponding entry in column 4 of the said Schedule.

(2) There shall be levied and collected as a cess, for the purposes of this Act, on every produce specified in column 2 of the Second Schedule, a duty of excise at such rate, not exceeding the rate specified in the corresponding entry in column 3 thereof, as the Central Government may, by notification in the Official Gazette, specify :

Provided that until such rate is specified by the Central Government, the duty of excise shall be levied and collected at the rate specified in the corresponding entry in column 4 of the said Schedule.

4. Every duty of customs leviable under this Act on any produce shall be payable by the person by whom such produce is exported from India and every duty of excise leviable under this Act on any produce shall be payable by the occupier of the mill in which such produce is consumed or extracted.

Persons
who shall
be liable
to pay
duty.

5. (1) An amount equivalent to the proceeds of the duty levied and collected under this Act, reduced by the cost of collection as determined by the Central Government, together with any moneys received by the Central Government for the purposes of this Act, shall, after due appropriation made by Parliament by law, be utilized by the Central Government to meet the expenditure incurred in connection with measures which, in the opinion of that Government, are necessary or expedient to promote the improvement, development and marketing of produce. Appli-
cation of
proceeds
of cess.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the proceeds of the duty levied and collected under this Act may be utilized by the Central Government for all or any of the following purposes, namely :—

(a) undertaking, assisting or encouraging, agricultural, industrial, technological and economic research, including research on the utilization of the products obtained from any produce ;

(b) supplying technical advice to cultivators, growers and millers;

- (c) encouraging the adoption of improved methods of cultivation and storage of crops;
- (d) producing, testing and distributing improved varieties of crops or assisting such work;
- (e) assisting in the control of insects and other pests and diseases of the crops, both in the field and in storage;
- (f) promoting the improvement of the marketing of produce and the products obtained therefrom in India and abroad including the setting up and adoption of grade standards for the produce and the products obtained therefrom;
- (g) collecting statistics from cultivators, growers, dealers and occupiers of mills on all relevant matters and promoting improvement in the forecasting of crops and the preparation of all relevant statistics relating to the crops and the products obtained therefrom;
- (h) maintaining, and assisting in the maintenance of, such institutes, farms and stations as the Central Government may consider necessary;
- (i) advising and providing assistance on all matters connected with the improvement of the cultivation of crops (including advising on the best and most suitable varieties of the crops to be cultivated) and the improvement of the industries using the crops and the products obtained therefrom;
- (j) promoting and encouraging the co-operative movement in any connected industry;
- (k) adopting such measures as may be practicable for ensuring remunerative returns to the growers;
- (l) organising the establishment of cultivators', growers', millers' and consumers' organisations;
- (m) aiding and encouraging the establishment of exhibitions for demonstrating the uses of the produce and the products obtained therefrom;
- (n) adopting any other measures which the Central Government may deem to be necessary or advisable to carry out the purposes of this Act.

(3) In this section, "crops" means crops or plants from which any produce is obtained.

6. There shall be refunded from out of the proceeds of cess levied and collected under this Act, on such conditions as may be prescribed, all sums collected as cess on the quantity of oils exported from India, if such oils have been extracted from oil-seed or copra crushed in a mill in India, irrespective of whether the oil-seed or copra is produced in, or imported into, India.

7. The occupier of every mill shall,—

(a) if the mill was established before the commencement of this Act, within fourteen days from such commencement, and

(b) if the mill is established after the commencement of this Act, within fourteen days from such establishment,

furnish to the Collector a statement containing the following particulars, namely :—

(i) the name and situation of the mill;

(ii) the name and address of the occupier;

(iii) the address to which the communications relating to the mill may be sent; and

(iv) the total capacity of the mill.

8. (1) Every occupier of a mill shall furnish to the Collector every month a return stating the total amount of produce, specified in the Second Schedule, consumed or brought under processing or extracted in the mill during the preceding month.

(2) The return referred to in sub-section (1) shall be furnished before the seventh day of each month together with such other information as may be prescribed.

(3) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

9. (1) On receiving any return made under section 8, the Collector shall assess the duty of excise payable on every produce specified in the Second Schedule, in respect of the period to which the return relates, and if the amount has not already been paid, shall cause a notice to be served upon the occupier of the mill requiring him to make payment of the amount assessed within ten days of the service of the notice.

(2) If the occupier of any mill fails to furnish in due time the return referred to in section 8 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount payable by him in such manner, if any, as may be prescribed, and the provisions of sub-section (1) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the occupier :

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the duty of excise at an amount higher than that at which it is assessable on the basis of the return without giving to the occupier a reasonable

Occupier to supply certain particulars to Collector.

Delivery of monthly returns.

Collection of cess leviable on produce specified in Second Schedule.

opportunity of proving the correctness and completeness of the return.

(3) A notice under sub-section (1) may be served on the occupier of a mill either by registered post or by delivering or tendering it to the occupier or his agent at the mill.

Finality
of
assess-
ment.

10. (1) Any occupier of a mill who is aggrieved by an assessment made under section 9 may, within three months of service of the notice referred to in sub-section (1) of that section, appeal to such authority as the Central Government may, by notification in the Official Gazette, appoint in this behalf, for the cancellation or modification of the assessment and, on such appeal, the said authority may cancel or modify the assessment and order the refund to such occupier of the whole or part, as the case may be, of the amount paid thereunder :

Provided that the authority so appointed shall not be inferior in rank to the Collector by whom the assessment was made.

(2) The appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month.

(3) Where the appellate authority is of opinion that any duty of excise has been short-levied, no order enhancing the duty of excise shall be made unless the appellant has been given notice to show cause, within one month from the date of service thereof, against the proposed order.

(4) The Central Government may, on the application of any person aggrieved by any order made under sub-section (1) or sub-section (3), cancel or modify such order, if such application is made within six months from the date of the order made under sub-section (1) or sub-section (3), as the case may be.

(5) The Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of six months, allow it to be presented within a further period of one month.

(6) The decision of the Central Government, and subject to the decision of the Central Government, the decision of the appellate authority, shall be final.

11. (1) The Collector shall in respect of any produce specified in the First Schedule which is exported by sea assess and collect the duty of customs at the customs port of export.

Collection
of cess
on any
produce
specified
in First
Schedule.

(2) Where any produce specified in the First Schedule is exported by land, the duty of customs leviable under this Act on such produce shall be assessed and collected by such authority and in such manner as may be prescribed, and, until so prescribed, such duty of customs shall be levied and collected in accordance with the law in force immediately before the commencement of this Act.

54 of 1963.

(3) The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963, may, by rules, specify the conditions and restrictions subject to which—

(a) refund may be made of the duty of customs levied on any produce specified in the First Schedule which is exported by land, where such produce is subsequently imported into India,

(b) export may be made by land, without payment of any duty of customs, of any produce specified in the First Schedule which is intended to be brought back to India.

12. Where any duty of customs or excise demanded from any person or any penalty payable by any person under this Act is not paid,— Recovery of sums due to Government.

(a) the Collector may deduct the amount so payable from any money owing to such person which may be under the control of the Collector or any other officer ; or

(b) the Collector may recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the Collector or any other officer ; or

(c) if the amount cannot be recovered from such person in the manner provided in clause (a) or clause (b), the Collector may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector shall, on receipt of such certificate, proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue.

13. (1) The Collector or any officer empowered by general or special order of the Central Government in this behalf shall have free access at all reasonable times during working hours to any mill or any part of a mill. Power to inspect mills and take copies of account.

(2) The Collector or any such officer may, at any time during working hours, with or without notice to the occupier, examine the purchase, sale and stock records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder :

Provided that nothing in this section shall be deemed to authorize the examination of any description or formulae of any trade process.

Information acquired to be confidential.

14. (1) All such copies and extracts and all information acquired by a Collector or any other officer from any inspection of any mill or from any return submitted under this Act shall be treated as confidential.

(2) If the Collector or any such officer discloses to any person, other than a superior officer, any such information as aforesaid, without the previous sanction of the Central Government, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine :

Provided that nothing in this section shall apply to the disclosure of any such information for the purpose of a prosecution in respect of the making of a false return under this Act.

Provisions of certain Acts to apply.

52 of 1962.

15. (1) The provisions of the Customs Act, 1962, and the rules and regulations made thereunder, including those relating to refunds and exemptions from duty, shall, so far as may be, apply in relation to the levy and collection of duties of customs on any produce specified in the First Schedule as they apply in relation to the levy and collection of duty payable to the Central Government under that Act.

(2) The provisions of the Central Excises and Salt Act, 1944, and the rules made thereunder, including those relating to refunds and exemptions from duty, shall, so far as may be, apply in relation to the levy and collection of duties of excise on any produce specified in the Second Schedule as they apply in relation to the levy and collection of duty payable to the Central Government under that Act.

Offences.

1 of 1944.

16. (1) Whoever—

(a) evades the payment of any duty of customs or excise payable under this Act, or

(b) fails to furnish any return or information which it is his duty to furnish under this Act or furnishes a return or information which is false in material particulars or which he does not believe to be true, or

(c) obstructs the Collector or any other officer in the performance of his duties under this Act or any rules made thereunder,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(2) Any court trying an offence under this Act may direct that any produce in respect of which it is satisfied that an offence punishable under this Act has been committed shall be forfeited to Government and may also direct that all packages, coverings or receptacles in which such produce is contained and every animal, vehicle, vessel or other conveyance used in carrying such produce shall be forfeited to Government.

17. No prosecution for any offence punishable under this Act shall be instituted against any person except by, or with the consent of, the Collector. Limitation of prosecution.

18. Any offence punishable under this Act may, either before or after the institution of the prosecution, be compounded by the Collector or any other officer authorised by him in this behalf on payment to the Central Government, for the purposes of this Act, of such sum as the Collector or such officer, as the case may be, thinks fit. Composition of offences.

19. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any person authorized by the Central Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder. Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Central Government or any person authorized by the Central Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or any rule or order made thereunder.

20. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) conditions subject to which refund may be made of any sums collected as duties of excise on any quantity of oil exported from India;

(b) the form of the monthly return which every occupier of a mill should submit to the Collector and the manner in which such return shall be verified;

(c) information which every occupier may be required to furnish in the monthly returns;

(d) manner in which assessment of duties of excise shall be made where no return has been furnished or the return which has been furnished is believed by the Collector to be incorrect or defective;

(e) the authority by which and the manner in which the duties of customs leviable under this Act shall be collected on any produce specified in the First Schedule which is exported by land; and

(f) any other matter which is required to be, or may be, prescribed.

Power to remove difficulties. 21. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, make such directions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such directions shall be made after the expiry of a period of three years from the date of commencement of this Act.

Rules to be laid before Parliament. 22. Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

THE FIRST SCHEDULE

[See section 3(1)]

S. No.	Name of the produce.	The maximum rate at which duty of customs may be collected.	Actual rate at which duty of customs is to be collected un- til a different rate is specified by the Central Government.
1	2	3	4
1	Lac produced in India.	Rupees two and thirty paise per quintal.	Rupees two and thirty paise per quintal.
2	Refuse lac produced in India.	Rupee one and seventy paise per quintal.	Rupee one and seventy paise per quintal.

THE SECOND SCHEDULE

[See section 3(2)]

S. No.	Name of the produce.	The maximum rate at which duty of excise may be collected.	Actual rate at which duty of excise is to be collected until a different rate is specified by the Central Government.
1	2	3	4
1	Cotton consumed in any mill in India with a view to producing or manufacturing any goods therefrom.	One rupee per bale of 181.4 kilo- grams, or in the case of unbaled cotton, twenty- eight paise per 50 kilograms.	Seventy-five paise per bale of 181.4 kilograms, or in the case of unbaled cotton, twenty-one paise per 50 kilo- grams.
2	Copra consumed in any mill in India with a view to producing or ma- nufacturing any goods therefrom.	Seventy-five paise per quintal of copra.	Sixty paise per quintal of copra.
3	Oils extracted from oil-seed crushed in any mill in India.	One rupee per quintal of oil.	Sixty paise per quintal of oil.

S. P. SEN-VARMA,
Secy. to the Govt. of India.